



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

interpretation which the court has, in these latter days, imposed upon the fourteenth amendment, though his criticism of it is naturally quite innocent of logical or historical analysis. More disappointing is his failure to point out the demonstrable fact that this interpretation was secured, in part at least, by the promotion to the Supreme Court of judges who had favored it in lower courts, as against those who had disfavored it. But at one point our author finds the court "ultra-progressive," namely, in the attitude which he thinks he finds it taking toward monopoly. At this point he becomes fairly eulogistic: "In reality," he writes (661), "the Supreme Court in the specific point in question was the most alert, adaptable, ultra-progressive institution in the United States. Frosted with heavy years most of its members truly were; but in depth of mind, in clarity of vision and grasp of affairs no body of men were less archaic or (in the particular referred to) more keenly responsive to the altering conditions as required by the dominant division of the ruling class. This was their one ability—an ability to be estimated and appreciated at its high historic worth." Notwithstanding its unfortunate economic training the Court has refused to stand in the way of industrial evolution, has declined "to interfere with the orderly transition of society from an older outworn, crumbling stage to a newer, more modern era."

While suggestive, the volume as a whole leaves one strongly with the impression that Laborite Socialism enjoys too recent a revelation to fit its devotees for the task of writing history as that task is conventionally conceived.

EDWARD T. CORWIN.

*The Corporate Nature of English Sovereignty.* By W. W. LUCAS.  
(London: Jordan and Sons, Limited, 1911. Pp. xvi. 91.)

The reader who expects to find in this book any application to England of a general theory of sovereignty will be disappointed. It deals with the question only as a branch of English law. The author describes his own method in saying that he "has taken the liberty of applying appropriate modern descriptions to early institutions which existed only in crude or innominate forms, as this is a practice which has been adopted by other writers including many of the highest eminence." Thus the "appropriate modern description" of the Anglo-Saxon government seems to depict a state where all the people were *entitled* to be present at the meetings of a Witan whose power of electing and deposing kings

is unquestioned. The author seems to be wholly innocent of any knowledge of the recent important studies on these matters by his fellow Cantabrigian, Mr. H. M. Chadwick. Again applying the "appropriate description," we find that after the Norman conquest and up to the thirteenth century "the tenants-in-chief, who constituted the political *personnel* of the nation, were all *entitled* to attend the commune concilium and this *right* was confirmed by the Great Charter." It follows, of course, that William and many of his successors often ordained and established law "in an irregular manner," and in general the King's power was increased "in a most unconstitutional manner." The irregularity and unconstitutionality of all this is unquestioned, if "the fact is admitted on all hands" that "the kingship is now and always was *limited*."

The ultimate conclusion arrived at by this method is that "the English Sovereignty" is and always was "co-operative." That in legal theory the king never could act alone in any department of state activity, but only in conjunction with other organs of the State which were always more or less independent of his control.

There is certainly some truth in the statement that the king's power in England was never limitless, but it is a quite different matter to lay down the rule unhesitatingly that all the practical hindrances to a feudal king are necessarily *constitutional* limitations. One wonders when the Kings of France ceased to be "limited monarchs."

The method of applying "appropriate modern descriptions" to "innominate forms" is essentially unsound. It is based on the fundamental error, pointed out long ago by Maitland, of mistaking the indefinite for the simple.

Mr. Lucas quotes with seemingly unconscious candor Sir William Anson's letter commenting on his theory as follows: "If by coöperative sovereignty you mean that according to the Theory of the Constitution the King never acts, and never has acted alone, I think that what you are asserting is a commonplace in constitutional history. But I think also that anyone who propounded this theory to William I, or Henry II, would have found his constitutional studies cut very short. Henry VIII would probably have shown him that there were constitutional methods of enforcing the King's personal inclinations, and if he had suggested to William III that he had better follow the lines of the constitution in his dealings with our foreign relations, I think that contemptuous disregard would have been all that befel him."

C. H. McILWAIN.